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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,135	02/06/2002	Jose Merino-Lopez	A33384-A	2661

5514 7590 05/10/2005

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NEW YORK, NY 10112

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/071,135	Applicant(s) MERINO-LOPEZ ET AL.	
	Examiner Steven D. Maki	Art Unit 1733	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see advisory action attachment. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-21, 30 and 31.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

ADVISORY ACTION ATTACHMENT

new issues

The new issues are (1) in claim 1, adding "wherein an estimate of a tangential force on the vehicle is obtainable based on the tangential force measured in the first tread element, without a measurement in the second tread element" and (2) in claim 31, adding "wherein an estimate of a tangential force on the vehicle is obtainable based on the tangential force measured in the first tread element, without a measurement in the second tread element". The remaining changes do not raise new issues. It is noted that the proposed changes for claim 30 in the after final amendment filed 4-25-05 would remove the 112 first and second paragraph rejections against claim 30.

remarks

With respect to the 112 first paragraph rejection of claim 31, applicant argues and the examiner agrees that literal support is not required. However, applicant fails to explain why "slides substantially less" is reasonably conveyed by the original disclosure.

Applicant argues that the feature of "slides substantially less" is described throughout the specification" for example at paragraph 69. This argument is not persuasive. The original disclosure describes that only small parts of the remainder of the tread slide over the ground such that these sliding parts are far too small to provide an exploitable measurement for arriving at the friction potential. See paragraph 69. In contrast, claim 31 requires "slides substantially less". The sliding subject matter in claim 31 reads on parts sliding a small amount, which allows for an exploitable measurement for arriving at the friction potential whereas paragraph 69 of the original

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disclosure *excludes* this subject matter. In other words, "slides substantially less" reads on sliding amounts not contemplated by the original disclosure such as those which are small yet allow for an exploitable measurement.

With respect to 112 first paragraph support for "slides substantially less", applicant comments that the specification describes forming the tread blocks according to the art of designing tread, i.e. designed not to slide under normal operating conditions. This argument is not persuasive since "does not slide" and "slides substantially less" appear to be *mutually exclusive* concepts.

With respect to the 112 second paragraph rejection of claim 31, applicant argues that "substantially less" is definite when viewed in the context of the content of the application, the teachings of the prior art and the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made. This argument fails to provide any further clarification of "slides substantially less" such as to make the meets and bounds of claim 31 clear.

With respect to German 917 and Becherer, applicant's arguments are directed to the new issues which as already noted require further search and/or consideration.

Applicant's arguments regarding Brazil are not persuasive since Brazil teaches locating a sensor for measuring stresses in a central zone (albeit not encircled) of a land portion of a tire tread and the applied secondary art to Japan 807, Japan 321 or Japan 918 suggests forming a land portion of a tire tread so as to have an encircling zone and central zone for improving steering stability and preventing wear respectively. One of ordinary skill in the art would have been motivated to include Brazil's sensor in the

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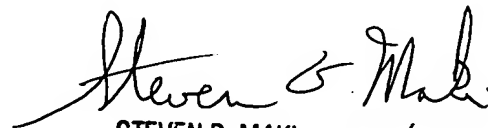
encircled central zone of the land portion described by Japan 807, Japan 321 or Japan 918 so as to provide means for measuring stresses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
May 6, 2005


STEVEN D. MAKI
PRIMARY EXAMINER
GROUP 1300
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5-6-05